

**Enrolled Minutes of the Eighty-second Regular or Special Meeting
For the Twenty-Sixth Highland Town Council
Regular Meeting
Monday, April 25, 2011**

Study Session. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in a study session preceding the regular meeting on Monday, April 25, 2011 at 6:45 O'clock P.M. in the regular place, the meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

Silent Roll Call: Councilors Bernie Zemen, Dan Vassar, Brian Novak and Konnie Kuiper were present. Councilor Mark Herak was absent owing to work-related travel. The Clerk-Treasurer, Michael W. Griffin was present to memorialize the proceedings. A quorum was attained.

General Substance of Matters Discussed.

1. The Town Council discussed the imminent agenda of the regular meeting.

The study session ended at 6:59 O'clock p.m.

Regular Meeting. The Twenty Sixth Town Council of the Town of Highland, Lake County, Indiana met in its regular session on Monday, April 25, 2011 at 7:04 O'clock P.M. in the regular place, the plenary meeting chambers of the Highland Municipal Building, 3333 Ridge Road, Highland, Indiana.

The Council President Brian J. Novak, presided and the Town Clerk-Treasurer was present to memorialize the proceedings. The meeting was opened with Councilor Konnie Kuiper reciting the Pledge of Allegiance to the Flag of the United States of America and offering a prayer.

Roll Call: Present on roll call were Councilors Bernie Zemen, Dan Vassar, Brian Novak and Konnie Kuiper were present. Councilor Mark Herak was absent owing to work-related travel. The Clerk-Treasurer, Michael W. Griffin was present. A quorum was attained.

Additional Officials Present: Rhett Tauber, Town Council Attorney; Peter T. Hojnicky, Metropolitan Police Chief; Kenneth J. Mika, Building Commissioner; William R. Timmer, CFOD, Fire Chief; Alex M. Brown, CPRP, Parks and Recreation Superintendent; and Cecile Petro, Redevelopment Director were present.

Also Present: Ed Dabrowski, IT Director; and Robin Carlascio of the Idea Factory and News letter editor were also present.

Minutes of the Previous Session

The minutes of the regular meeting of 11 April 2011 were approved by general consent.

Unfinished Business and General Orders:

1. **Resolution No. 2011-15:** A Resolution Finding and Determining Unobligated Funds in the Capital Project Retainage Agency Fund and Authoring the Transfer of the Unobligated Funds to the fund of origin, the Cumulative Capital Improvement Fund.

Councilor Kuiper moved and Councilor Vassar seconded the passage and adoption of Resolution No. 2011-15. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

TOWN OF HIGHLAND
RESOLUTION NO. 2011-15

A Resolution Finding and Determining Unobligated Funds in the Capital Project Retainage Agency Fund and Authoring the Transfer of the Unobligated Funds to the fund of origin, the Cumulative Capital Improvement Fund.

WHEREAS, Pursuant to its authority under IC 36-1-3, the Town Council adopted Ordinance No. 1382, April 14, 2008, establishing the **Capital Projects Retainage Agency Fund**; and,

WHEREAS, The Public Works Director reports that during the course of the Highland Street Reconstruction Project, which was partially funded by Community Development Block Grant Funds administered by the Lake County Community Economic Development Department, resources of the Cumulative Capital Improvement Fund were used to supply the retainage contributions associated with the project;

WHEREAS, The Public Works Director further reports that owing to the Lake County Community Economic Development Department paying a greater share of the total cost of the project than expected, the Town of Highland inadvertently paid a greater share than ultimately needed toward the retainage contribution, that amount being \$3,046.96;

WHEREAS, The Public Works Director, still further reports that the Highland Street Reconstruction Project is concluded, now requests that the surplus payment on deposit to the Capital Projects Retainage Agency Fund, in the amount of \$3,046.96 be transferred and returned to the Cumulative Capital Improvement; and,

WHEREAS, The Town Council is also the fiscal body of the municipality pursuant to IC 36-1-2-6(4), and as such is the proper body to make the requested transfer and now desires to make the transfer as requested by the Public Works Director,

NOW, THEREFORE BE IT RESOLVED by the Council of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Town Council of the Town of Highland, as the fiscal body of the municipality now finds and determines that owing to the Lake County Community Economic Development Department paying a greater share of the total cost of the Highland Street Reconstruction Project than expected, the Town of Highland inadvertently paid a greater share than ultimately needed toward the retainage contribution, that amount being \$3,046.96;

Section 2. That the Town Council of the Town of Highland, as the fiscal body of the municipality now further finds and determines that the fund of origin of the surplus retainage contribution is the Capital Cumulative Improvement Fund;

Section 3. That the Clerk-Treasurer be and is hereby directed to transfer and return the surplus payment in the amount of \$3,046.96 on deposit to the Capital Projects Retainage Agency Fund to the Cumulative Capital Improvement.

DULY RESOLVED and ADOPTED this 28th Day of April 2011 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

2. **Resolution No. 2011-16:** A Resolution of the Town Council, Acknowledging the Sheriff's Sale Adjustment of \$70.08 for outstanding Solid Waste Service charges incurred prior to January 7, 2011, at 7939 Glenwood Avenue, Highland, and authorizing the reduction of the accounts receivables for Solid Waste Services by the adjusted amount.

Councilor Vassar moved seconded by Councilor Kuiper the passage and adoption of Resolution No. 2011-16. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The resolution was adopted.

**THE TOWN of HIGHLAND
TOWN COUNCIL
RESOLUTION No. 2011-16**

A Resolution of the Town Council, Acknowledging the Sheriff's Sale Adjustment of \$70.08 for outstanding Solid Waste Service charges incurred prior to January 7, 2011, at 7939 Glenwood Avenue, Highland, and authorizing the reduction of the accounts receivables for Solid Waste Services by the adjusted amount.

Whereas, The Highland Town Council as municipal legislative and fiscal body, provides solid waste management services, supported by user fees and charges all pursuant to I.C. 36-9-30 as amended;

Whereas, Indiana Code provides for the disposition of certain consumer accounts credits, when associated with a property that is the subject of an enforced sale conducted by the County Sheriff;

Whereas, The Town Clerk-Treasurer has advised the Town Council that the property located at 7939 Glenwood Street, Highland, was the subject of a "Sheriff's Sale", during which and pursuant to law, certain solid waste user fees charged before January 7, 2011, were adjusted off in the amount of \$70.08, in order to support the sale of the property;

Whereas, The Town Clerk-Treasurer has further advised the Town Council that there is no recourse for such adjustments in consequence of a Sheriff's sale, but that such adjustments should be reported to the board or council of jurisdiction over the fee, for its acknowledgement and direction regarding any accounts receivable balances for the particular municipal services; and,

Whereas, Indiana Code 36-9-30-7 and Chapter 170 of the Highland Municipal Code provide that the Town Council has proper jurisdiction to manage and control the solid waste management program;

BE IT HEREBY RESOLVED BY the Town Council, which is both the fiscal and legislative body of the Town of Highland, Lake County, Indiana, as follows:

Section 1. That the Highland Town Council hereby acknowledges that property located at 7939 Glenwood was the subject of a Sheriff's Sale, and in consequence of that sale, Solid waste management user charges in the amount of \$70.08, incurred before January 7, 2011 and associated with that address, were "adjusted" and removed as charges for the benefit of the buyer at the sale;

Section 2. That the Town Council authorizes and instructs the municipal fiscal officer to take such measures as necessary to properly adjust the solid waste services account in the amount of \$70.08 particularly reducing its solid waste management services accounts receivable balance by that amount;

Section 3. That the Clerk-Treasurer as municipal fiscal officer, is further hereby directed and authorized to perform such duties and modify such accounts as to fulfill the purpose of and to carry-out the provisions of this resolution.

Duly Approved and Adopted by the Town Council of the Town of Highland, Lake County, Indiana this 28th day of April 2011 by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

3. **Works Board Order No. 2011-14:** An Order of the Works Board Approving a Revised License Agreement Between Lamar Advertising Company as Licensee and Town of Highland as Licensor. (A license was granted and a license agreement was approved by the passage and adoption of Works Board Order No. 2008-30, adopted November 10, 2008. The licensee has asked for certain minor changes to the agreement.)

Councilor Zemen moved, seconded by Councilor Vassar the passage and adoption of Works Board Order No. 2011-14. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.

**The Town of Highland
ORDER of the WORKS BOARD NO. 2011-14**

An Order Authorizing, Approving and Adopting a modified LICENSE Agreement with The TOWN of HIGHLAND, as Licensor and LAMAR Advertising Company, as Licensee, and approving a reasonable license fee.

WHEREAS, THE TOWN OF HIGHLAND, LAKE COUNTY, INDIANA, a municipal corporation organized pursuant to the laws of Indiana (hereinafter sometimes described as Licensor) owns and has title to certain real property located in the Town of Highland, Lake County, Indiana, which is particularly described in an exhibit attached to this order;

WHEREAS, The Town of Highland, through its Town Council, adopted Works Board Order No. 2008-30 on November 10, 2008, approving a license for and license agreement with THE LAMAR ADVERTISING COMPANY, a private corporation organized pursuant to the laws of Indiana (hereinafter sometimes described as Licensee) in support of the construction and installation of an electronic billboard on property particularly described in the attached exhibit;

WHEREAS, THE LAMAR ADVERTISING COMPANY, a private corporation organized pursuant to the laws of Indiana (hereinafter sometimes described as Licensee) desires to **modify** the terms of the license agreement governing the granted license permitting the construction and operation of an electronic commercial billboard advertising

structure and all other appurtenances on premises of the Town of Highland (sometime herein described as Licensor) as particularly described herein;

WHEREAS, IC 36-8-2-10 provides that a municipality may regulate the operation of businesses, crafts, professions, and occupations;

WHEREAS, IC 36-8-2-11 provides that a municipality may regulate solicitation by persons offering goods or services to the public;

WHEREAS, IC 36-7-2-2 provides that a municipality may regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements; and

WHEREAS, The Licensor wishes to grant to the Licensee, a **modified** license agreement for the construction and operation of an electronic commercial billboard advertising structure and all other appurtenances on premises of the Licensor as particularly described herein;

NOW, THEREFORE, BE IT HEREBY ORDERED by the Highland Town Council, Lake County, Indiana as follows:

Section 1 That the **ATTACHED MODIFIED LICENSE AGREEMENT**, presented by LAMAR ADVERTISING COMPANY, INC., as licensee, to permit the construction and operation of an electronic (light emitting diode) commercial billboard advertising structure and all other appurtenances on premises of the Licensor as particularly described herein is hereby approved in each and every respect;

Section 2. That the **TERM OF THE LICENSE SHALL BE** for a period of fifteen years, and that the licensee initially shall pay *an annual* license fee to the Licensor in the amount of fifteen thousand dollars (\$15,000), escalating over time, as provided in the terms of the license agreement;

Section 3. That the Town Council hereby finds and determines that the license fee herein approved is reasonably related to the administrative cost of exercising the regulatory power associated with the licensed activity, pursuant to IC 36-1-3-8(a)(5);

Section 4. That the Town Council President be hereby authorized to execute the License Agreement by his signature as thereto attested by the Clerk-Treasurer.

Be it So Ordered.

DULY, PASSED, ADOPTED and ORDERED by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 28th day of April 2011 having passed by a vote of 4 in favor and 0 opposed.

**TOWN COUNCIL as the Works BOARD of the
TOWN of HIGHLAND, INDIANA**

Brian J. Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

4. Authorization for the proper officer to public legal notice advertising a public hearing for proposed additional appropriations in excess of the budget for 2011 in the Parks Non Reverting Capital Fund, in the amount of \$535,000.

Councilor Vassar moved seconded by Councilor Kuiper to authorize the publication of legal notice for the proposed additional appropriations. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The notice was authorized.

5. **Works Board Order No. 2011-15:** An Order of the Works Board Approving and Authorizing the Metropolitan Police Chief to Enter into a Purchase Agreement with CBL Consulting to obtain Ten (10) Dell Latitude E6410 ATG Laptop Computers, pursuant to IC 5-22 and §31.18(C) of the Municipal Code.

Councilor Zemen moved, seconded by Councilor Kuiper the passage and adoption of Works Board Order No. 2011-15. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The order was adopted.

AN ORDER APPROVING AND AUTHORIZING THE METROPOLITAN POLICE CHIEF TO ENTER INTO A PURCHASE AGREEMENT WITH CBL CONSULTING TO OBTAIN TEN (10) DELL LATITUDE E6410 ATG LAPTOP COMPUTERS, PURSUANT TO IC 5-22 AND §31.18(C) OF THE MUNICIPAL CODE.

Whereas, The Town of Highland Metropolitan Police Department, as part of its public duties, has responsibility for patrol, public safety and protection of life and property throughout the Town of Highland and, from time to time, it is necessary to purchase and or lease materials and supplies in order to carry out the functions of the department; and

Whereas, The Metropolitan Police Chief has previously determined a need to replace certain equipment and supplies and has further determined that since the unit price will likely be below \$25,000.00, no quotes from vendors was or will be sought, but instead a purchase of ten (10) Dell Latitude E6410 ATG laptop computers, will be made in open market, pursuant to Section § 31.20 (G) (2) of the Highland Municipal Code;

Whereas, The Metropolitan Police Chief has previously identified Dell Computers, to be a desirable source vendor for the purchase of ten (10) Dell Latitude E6410 ATG laptop computers, at a unit price of \$2,200.00 for each laptop, but a total contract price of \$22,000.00, plus shipping and handling, pursuant to Section § 31.20 (G) (2) of the Highland Municipal Code;

Whereas, The contract price for the purchase of the foregoing is in excess of \$10,000 and, pursuant to §31.18(C) as well as §31.19(B)(1)(b) of the Highland Municipal Code, does require the express approval of the purchasing agency; and

Whereas, The Town Council as the Works Board of the Municipality, pursuant to §31.17(A)(2) of the Highland Municipal Code serves as purchasing agency for the Metropolitan Police Department; and

Whereas, The Metropolitan Police Chief, pursuant to §31.19(D)(2) of the Highland Municipal Code, serves as the Purchasing Agent for the Metropolitan Police Department; and

Whereas, The purchase will supported by a duly approved appropriation in the **Municipal Cumulative Capital Development Fund**; and

Whereas, The Town Council now desires to approve and authorize the Metropolitan Police Chief to enter into a purchase agreement pursuant to the terms stated herein,

Now Therefore Be it Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board of Municipality:

Section 1 That the Works Board hereby finds and determines that the purchase as an individual purchase represents a duly executed **small purchase** pursuant to IC 5-22 and §31.20(G) (2) of the Highland Municipal Code;

Section 2. That the purchase of ten (10) Dell Latitude E6410 ATG laptop computers, at a unit price of \$2,200.00 for each laptop, but a total contract price of **\$22,000.00**, plus any shipping and handling, is hereby authorized and approved;

Section 3. That the Metropolitan Police Chief is now authorized and approved to execute the purchase agreement and any additional documents in order to implement this purchase and then file these documents as financial materials with the Office of the Clerk-Treasurer, pursuant to IC 36-5-4-14;

Be it So Ordered.

DULY, PASSED, ADOPTED AND Ordered by the Town Council of the Town of Highland, Lake County, Indiana, acting as the Works Board, this 25th day of May 2011 having passed by a vote of **4** in favor and **0** opposed.

**TOWN COUNCIL of the TOWN of
HIGHLAND, INDIANA**

Brian Novak, President (IC 36-5-2-10)

Attest:

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

6. **Action to authorize a special study session for Thursday, April 28, 2011 at 6:30 p.m. pursuant to Section §30.27(E) of the Municipal Code.** Councilor Zemen moved, seconded by Councilor Vassar, to authorize a special study session as indicated to be convened with the Town Council of Griffith to discuss possible ways to optimize service delivery through smart combination and cooperation. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The special meeting was authorized.
7. **Action to approve overtime payments for Exempt Salaried Personnel, pursuant to Section 3 of Ordinance No. 1375 the Wage and Salary Ordinance, as amended and Section §4.03.01 of the Compensation and Benefits Ordinance.** This waives the provisions of Section § 2.01 of the Compensation and Benefits Ordinance.

- 5.1 The Metropolitan Police Chief requests favorable action for R. Potesta, who is an exempt salaried employee, and investigations division commander, in the amount of \$100 for work associated with Highland Grove Mall Special Security.

Councilor Zemen moved, Coouncilor Kuiper seconded to authorize and approve the overtime payment as presented for Commander R. Potesta. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The overtime was approved.

- 5.2 The Metropolitan Police Chief requests favorable action for P. Vassar, who is an exempt salaried employee, and investigations division commander, in the amount of \$100 for work associated with Highland Grove Mall Special Security.

Councilor Zemen moved, Coouncilor Kuiper seconded to authorize and approve the overtime payment as presented for Assistant Chief Vassar. Upon a roll call vote, there were three affirmatives, no negatives and one abstention. With Councilors Zemen, Kuiper and Novak voting in the affirmative and Councilor Vassar abstaining, the motion passed. The overtime was approved.

Comments from the Town Council Members
(For the Good of the Order)

- **Councilor Bernie Zemen:** • *Park and Recreation Board Liaison Lake County Solid Waste Management District Board of Directors • President's designee to Chair the Select Centennial Commission • Chamber of Commerce, Liaison • Redevelopment Commission Liaison.*

Councilor Zemen recognized the Redevelopment Director who reported on the recent so-called "Pop-up Galley" Event to promote vacant properties for leasing.

Councilor Zemen recognized the Parks and Recreation Superintendent who reported that Phase I completion related to the Reconstruction of the Lincoln Community Center, was nearing attainment.

Councilor Zemen noted that the Building Commissioner Ken Mika was to be on his radio show.

- **Councilor Dan Vassar:** • *Plan Commission member.*

Councilor Vassar recognized the Building Commissioner who offered a cursory survey of matters before the Plan Commission.

Councilor Vassar also reported favorably on the recent opening day for Highland Little League Season.

- **Councilor Konnie Kuiper:** • *Fire Department, Liaison • Plan Commission member • Town Board of Metropolitan Police Commissioners, Liaison.*

Councilor Kuiper recognized the Fire Chief who reported briefly on a recent inspection to Pennsylvania to review the two Fire Trucks recently purchased from American LaFrance.

Councilor Kuiper recognized the Metropolitan Police Chief who reported favorably on a recent pharmaceutical "take-back" event in which persons could present to the Town unwanted drugs for disposal instead of home disposal.

- **Council President Brian Novak:** • *Town Executive • Police Pension Board of Trustees Chair • Advisory Board of Zoning Appeals, Liaison • Traffic Safety Commission Member.*

The Town Council President recognized the Metropolitan Police Chief who noted there were no special matters to come before the Traffic Safety Commission.

Comments from the Public or Visitors

1. Mr. Shawn Pettit, of LamArr Advertising reported that his firm would be installing its Light Emitting Diode (LED) Outdoor Bill board sign in 90-100 days. He thanked the Town Council for it earlier approval of the zoning appeal petition.
2. Mr. Tom Black, 3515 Garfield Avenue, Highland inquired about the overtime payment for services at the Highland Grove Mall.

Payment of Accounts Payable Vouchers. There being no further comments from the public or visitors, Councilor Kuiper moved to allow the vendors accounts payable vouchers as filed on the pending accounts payable docket, covering the period April 12, 2011 through to April 25, 2011 as well as the Payroll Docket of March 25, 2011. Councilor Vassar seconded. Upon a roll call vote, there were four affirmatives and no negatives. The motion passed. The accounts payable vouchers for vendors and payroll were allowed and the clerk-treasurer was authorized to make payment.

Vendors Accounts Payable Docket:

General Fund, \$306,585.90; Motor Vehicle Highway and Street (MVH) Fund, \$26,025.71; VIPS/Parks Public Safety Fund, \$1,429.00; Law Enforcement Cont. Education and Supply Fund, \$532.11; Insurance Premium Fund, \$1,294.00; Information and Communications Technology Fund, \$10,335.70; Special Events Non Reverting Fund, \$198.04; Police Pension Fund, \$58,310.24; Municipal Cumulative Capital Development Fund, \$81,275.00; General Improvement Fund, \$12.00; Traffic and Law Violations Agency Fund, \$6,048.50; Sexual Predator Grant Fund, \$4,400.00; Gaming Revenue Sharing Fund, \$27,491.20; Corporation Capital Fund, \$7,306.25; Special Public Safety Fund, \$7,950.00; Total: \$539,193.65.

March 25 Payroll Payable Docket:

Council, Boards and Commissions, \$10,417.00; Office of the Clerk-Treasurer, \$12,858.83; Metropolitan Police Department: \$103,994.18; Building and Inspection: \$6,728.62; Public Works Department (Agency), \$51,141.07; Fire Department, \$3,065.66; Social Security, \$39,956.88; Police 1925 Pensions, \$58,256.41; Total: \$246,461.77.

Adjournment. Councilor Vassar moved that the plenary meeting be adjourned. Councilor Kuiper seconded. Upon a vote *viva voce*, the motion passed. The regular meeting of the Town Council of Monday, April 25, 2011 was adjourned at 7:33 O'clock p.m. There was no study session following the meeting.

Michael W. Griffin, IAMC/MMC/CPFA
Clerk-Treasurer